



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Jonathan Stinson
Application No.:	10/037036
Filed:	October 25, 2001
For:	Balloon Expandable Polymer Stent With Reduced Elastic Recoil
Group Art Unit:	3731

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No.: S63.2B-9919-US01

TRANSMITTAL LETTER


1. In regard to the above-identified application, in addition to this 2 page transmittal letter, we are submitting the attached:
2 Page Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences; 2 Page Applicant's Interview Record; Check in the amount of \$500.00 and Postcard.
2. With respect to fees:
 - ☐ No additional fee is required.
 - ☒ Attached is check(s) in the amount of \$500.00
 - ☒ Charge additional fee to our Deposit Account No. 22-0350.
3. **CONDITIONAL PETITION FOR EXTENSION OF TIME**
This conditional petition is being filed along with the papers identified in Item 1 above and provides for the possibility that Applicant has inadvertently overlooked the need for a petition and fee for extension of time or for a petition and fee for any other matter petitionable to the Commissioner as required. If any extension of time for the accompanying response is required or if a petition for any other matter is required, by petitioner, Applicant requests that this be considered a petition therefor.
4. Notwithstanding paragraph 2 above, if any additional fees associated with this communication are required and have not otherwise been paid, including any fee associated with the Conditional Petition for Extension of Time, or any request in the accompanying papers for action which requires a fee as a petition to the Commissioner, please charge the additional fees to Deposit Account No. 22-0350.

Please charge any additional fees or credit overpayment associated with this communication to the Deposit Account No. 22-0350.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

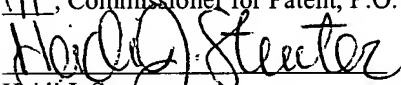
Date: December 17, 2004

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Certificate Under 37 CFR 1.8: I hereby certify that this Transmittal Letter and the paper(s) as described herein, are being deposited in the U.S. Postal Service, as FIRST CLASS MAIL, addressed to Mail Stop AF, Commissioner for Patent, P.O. Box 1450, Alexandria, VA 22313-1450, on December 17, 2004.


Heidi J. Steuter



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Jonathan Stinson
Application No.:	10/037036
Filed:	October 25, 2001
For:	Balloon Expandable Polymer Stent With Reduced Elastic Recoil
Examiner:	Vi Nguyen
Group Art Unit:	3731

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Applicant's Interview Record

A telephonic interview was held between applicant's counsel, Walter Steinkraus, and Examiner Victor X Nguyen on December 14, 2004.

Mr. Steinkraus pointed out that Andrews does not have a column 12 and that its only disclosure is of a metal coin stent, which is completely to polymer stents and their manufacture. The Examiner agreed that the Final Action should not have referred to col. 12 of the Andrews et al reference, and he stated he would consider further the viability of the obviousness rejection relying on Andrews et al, but he didn't commit to withdrawing the rejection.

Mr. Steinkraus also discussed the cited portions of the Stinson patent cited in the Final Action and pointed out how the recitations of the pending claims, in particular the sequence of steps, distinguish from the stent forming process of Stinson patent. In particular it was pointed out that the Stinson patent does not show an annealing step performed on a radially expanded stent. The attention of the Examiner was also drawn to col. 17, lines 4-9 which show that the process described in col. 16, lines 27-67 uses separate stents, not a single stent, to obtain the data points for the calculations discussed in this part of the Stinson patent. Therefore it cannot be reasonably be asserted that any annealing step discussed in col. 16, lines 27-67 has been performed on a radially expanded stent.

The Stinson patent is an earlier invention of the inventor in the present application. Mr. Steinkraus suggested providing a declaration from Stinson confirming this explanation of his

earlier patent. The Examiner stated he would consider such a statement. However he also made it clear that, in his view, the sequence of performing steps of radial expansion and annealing made no difference to the question of anticipation or obviousness. As understood, it is the Examiner's view that all he needed to show is that steps of forming a stent, radially expanding a stent and annealing the stent material were performed.


The interview ended without agreement on either of the outstanding rejections.

In view of the Examiner's position that sequence is irrelevant, it appears that an impasse has been reached. There is no point in filing a declaration or further response if the Examiner does not recognize the necessity of showing the sequence recited in the respective claims in this case. Accordingly, a Notice of Appeal is being filed with this paper.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

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